

25 MAY 2006



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

In re Application of
VORBACH et al.
Application No.: 10/523,763
PCT No.: PCT/EP03/08081
Int. Filing Date: 23 July 2003
Priority Date: 08 July 2002
Attorney Docket No.: 02885/92
For: METHOD AND DEVICE FOR PROCESSING
DATA

DECISION

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed 11 April 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 07 February 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 28 July 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. The NOTIFICATION set a two-month extendable period for response.

On 22 November 2005, applicants filed the instant petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR 1.492(h), a statement of facts by Christian Schattenmann, a copy e-mails sent to nonsigning joint inventor and a request for a two month extension of time.

On 07 February 2006, a decision dismissing the petition was mailed indicating that petitioner had not demonstrated that the nonsigning inventor refused to sign the application.

On 11 April 2006, applicant filed the instant renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(g); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Petitioner previously satisfied Items (1), (3) and (4). A complete review of the papers filed on 06 April 2006 reveals that petitioner provided sufficient proof that the non-signing inventor refuses to execute the application. Specifically, Petitioner submitted an email from Mr. Nuckel sent on 31 March 2006. An English translation of the email states, in pertinent part, "I can no longer provide any signatures in connection with PACT". This is sufficient evidence to conclude that Mr. Nuckel refuses to sign the application.

Thus, the requirements of 37 CFR 1.47(a) have been met and the petition is granted.

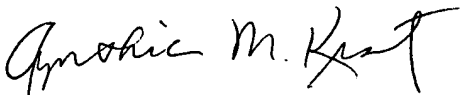
CONCLUSION

For the reasons set forth above, Petitioner has now satisfied the requirements of 37 CFR §1.47(a) and the petition with respect to Armin Nuckel is GRANTED.

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 22 November 2005. The application has an international filing date of 23 July 2003 under 35 U.S.C. 363, and a date of 22 November 2005 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventors at their respective last known address of record. Also, a notice of the filing of this application will be published in the Official Gazette.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing as the U.S. National Stage of the above-identified international application.



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Dear Mr. Nuckel:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.


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